

**AMENDMENT AND RESTATEMENT  
SAN LUIS OBISPO  
REGIONAL HAZARDOUS MATERIALS  
COOPERATIVE AGREEMENT**

WHEREAS, each of the following public agencies, City of Arroyo Grande, City of Atascadero, City of Grover Beach, City of Morro Bay, City of Paso Robles, City of Pismo Beach, City of San Luis Obispo, County of San Luis Obispo, Special Service Districts: Los Osos, Avila Beach, Cambria, Cayucos, Oceano, San Miguel, Santa Margarita, and Templeton, California Department of Corrections (California Men's Colony State Prison), California Department of State Hospitals (Atascadero State Hospital), California Military Department (California Army National Guard, Camp Roberts), and California State University (California Polytechnic State University San Luis Obispo), (hereinafter, "Public Agencies" or "Parties"), is at risk of a hazardous materials release or incident from the release of hazardous materials which are transported along the major highways, railroads, and petroleum pipelines in the County or are stored within the County for local use; and

WHEREAS, many of the Public Agencies participate in the California Master Mutual Aid Agreement and the San Luis Obispo County Fire Services Mutual Aid Operation Plan, and such plans provide for mutual aid response to hazardous materials emergencies; and

WHEREAS, each of the Public Agencies provides the necessary public funds for the protection of life and property against releases or incidents involving hazardous materials; and

WHEREAS, the creation of a specialized team ("Team") of personnel to respond to hazardous material emergencies or potential emergencies in the County of San Luis Obispo would provide the most effective use of the combined local resources and would benefit each of the Public Agencies; and

WHEREAS, consistent with Government Code section 6502.7, each of the Public Agencies has authority to respond to hazardous materials emergencies and to operate and maintain equipment for hazardous materials response; and

WHEREAS, the Public Agencies are authorized to contract with each other for the joint exercise of any common power pursuant to Article I Chapter 5, Division 7, of Title 1 of the Government Code of the State of California; and

WHEREAS, a COOPERATIVE AGREEMENT was entered into between the Parties on October 4, 1993 ("Agreement"); and

WHEREAS, the Parties now desire to amend and restate the Agreement in its entirety.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereby agree, amend and restate the Agreement in its entirety as follows:

1. PURPOSE OF AGREEMENT, COMMON POWER TO BE EXERCISED

As a supplement to the San Luis Obispo County Fire Services Mutual Aid Operation Plan, the Parties enter this Agreement for the purpose of providing for the creation and establishment of a Regional Hazardous Materials Response Team (hereinafter "Team"). The Team shall carry out the abatement and emergency control of hazardous conditions and stabilize the same, until these conditions can be turned over to the appropriate authority, for further disposal.

2. NO ENTITY SEPARATE AND APART FROM THE PARTY ENTITIES

The Parties agree that the purpose of this Agreement may be accomplished without creating an entity separate and apart from the Parties; therefore, the Parties expressly decline to create an entity separate and apart from the Parties to this Agreement.

3. MEMBERSHIP OF BOARD OF DIRECTORS

A Regional Hazardous Material Response Team Board of Directors (hereinafter "Board") shall be established to oversee the operation of the Team, establish Team policies and procedures in accordance with the Purpose of this Agreement, and manage the Team's finances and property utilized by the Team. The Board shall consist of six voting members selected by the following procedure:

A. There shall be three standing members on the Board:

- (1) The Fire Chief of the City of San Luis Obispo;
- (2) The Fire Chief of San Luis Obispo County; and
- (3) A representative of the County's Environmental Health Department.

B. There shall be one member representing each of the following three geographic areas:

- (1) North County, which includes San Miguel, Paso Robles, Templeton, Atascadero, Santa Margarita, Atascadero State Hospital and Camp Roberts;
- (2) South County, which includes Arroyo Grande, Pismo Beach, Grover Beach, Avila Beach, and Oceano; and
- (3) Coastal, which includes Morro Bay, Cambria, South Bay, Cayucos, California Men's Colony, and Cal Poly.

Each of these members shall be a Fire Chief elected by the Fire Chiefs of the communities that are represented by that area. Each electee shall serve a term of two years. He or she may be re-elected for an unlimited number of terms.

4. BOARD MEETINGS

The Board shall establish the time and place for its meetings and shall hold at least one annual meeting. A special meeting may be called by the Chairperson, or upon demand of two-thirds of the six members of the Board, by noticing each Board member at least 48 hours before the time of such meeting. The notice shall specify the time and place of the meeting and the business to be transacted. All meetings of the Board shall be open to the public, except for those sessions which may by law be closed. The Board shall cause its Secretary/Treasurer to maintain minutes of open meetings, which shall be public documents available for inspection at the County of San Luis Obispo Office of Emergency Services at all times during regular business hours of San Luis Obispo County. No compensation shall be received by any member of the Board for his or her services. No business shall be transacted without the presence of a quorum of the Board. A quorum shall consist of four or more Board members. A majority vote of the quorum shall be required to transact business. At the first Board meeting following the adoption of the new Agreement, the Board shall adopt rules for the orderly transaction of business.

5. BOARD OFFICERS AND EMPLOYEES

The Board shall elect officers, by majority vote, to serve as Chairperson and Vice Chairperson. The Secretary/Treasurer shall be a non-voting member of the Board and shall be a member of the County of San Luis Obispo Office of Emergency Services.

The Board will employ a "Business Manager" under their direction to handle Team business such as maintaining records, recording meetings on behalf of the Secretary/Treasurer, preparing staff reports, preparing a budget for approval by the Board and other business matters requested by the Board. The Business Manager may

be paid a monthly salary. The Business Manager will not have any oversight of the Team's emergency response activities.

The Board will also select a Team Leader, who will be a full-time employee of a Member Agency and who will complete his/her Team Leader roles while on-duty and at no additional cost to his/her agency or to the Team. The position will be rotated every two years among Member Agencies in order to share the workload. The Team Leader will:

- Manage operational and training programs.
- Coordinate the efforts of Member Agencies and Team Members.
- Function as the Team's primary technical expert and advise the Board of Directors accordingly.
- Oversee committees for Training, Policy, Equipment/IT, and Marketing and for other programs. Responsible for developing and maintaining Standard Operating Guidelines (SOG's), determining equipment needs, and taking on related tasks.
- Provide leadership to the Team, so that the Team can achieve the goals and objectives established by the Board and ensure the safe and successful mitigation of hazardous materials incidents to which the Team responds.
- Serve as the official representative of the Team to the public, news media, and other governmental agencies.
- Delegate these duties to other Team Members or employees of Member Agencies, when deemed appropriate by the Team Leader.

6. FINANCING

Use of the equipment, materials, and facilities of the Parties shall be in accordance with rules and regulations approved by the Board. The Board shall prepare an annual fiscal year budget for the needs of the Team. The Board shall maintain an equipment replacement/contingency fund for the continued operation of the Team. The Secretary/Treasurer shall bill each of the Parties annually or at more convenient intervals determined by the Secretary/Treasurer. All funds shall be deposited into a separate account to be maintained as the Regional Hazardous Materials Response Team Account (hereinafter "Account"). The Board shall have access to the Account upon signature of any two Board members. In the event any Party fails to contribute its equal share of the budget, as determined by the Secretary/Treasurer, such Party may be terminated from participation on or assistance by the Team by a majority vote of the Board.

- A. Any excess in federal, state, or local funds in the Account at the end of any fiscal year shall be transferred to the next fiscal year's budget.

- B. During the first year, a fund shall be established by the Board and funded by each of the Parties contributing an amount to the Account as designated in the following table:

Parties	Amount to Contribute First Year	Total First Year
County (1)	\$10,000	\$10,000
Cities (7)	\$ 5,000	\$35,000
Special Districts and other agencies (12)	\$ 2,000	\$24,000
		\$69,000

- C. During each successive budget year the Board may through a majority vote increase the contribution amount to the fund by a percentage not to exceed the previous year's Consumer Price Index (CPI) for the Los Angeles Region.
- D. Upon majority approval of the Board, the fund may be expended for the purchase of equipment, training needs, equipment repair, and other expenses determined necessary by the Board.
- E. Funds shall not be budgeted for or disbursed from the Account in a manner which creates a deficit at any time.

7. AMENDMENT OF AGREEMENT

The Board by a 2/3 majority vote may amend, delete or add additional sections to this Agreement except that any changes to the financial contributions by member Parties must comply with section 6C of this Agreement.

8. TERMINATION OF AGREEMENT

This Agreement shall remain in full force and effect until such time as a majority of the Board shall vote to terminate this Agreement and each of such majority Board member's Public Agency ratifies his or her vote. Each Party may individually terminate its involvement in this Agreement, and thereby withdraw from participation on or assistance by the Team, by providing 90 days written notice of termination to anyone of the members of the Board. A party individually terminating involvement in this

Agreement shall not be entitled to any refund of funds previously paid to the Account. In the event this Agreement is terminated by a majority vote of the Board ratified by the majority's Public Agencies, the following shall occur:

- A. All equipment and/or material donated by any agency for use by the Team shall be returned to the agency without compensation for either ordinary wear and tear, or replacement.
- B. All property utilized exclusively by the Team shall be sold at fair market value and the funds received shall be deposited in the Account.
- C. The Secretary/Treasurer shall pay any outstanding accounts, invoices, and Board-approved claims from the Account.
- D. Any grant monies which have not been expended shall be returned to the grantor.
- E. The Account shall be disbursed proportionally to those Public Agencies which participated in this Agreement at the time of the Board's majority vote for termination.

9. REPORTS

The Secretary/Treasurer shall maintain the financial records of the Team in an accurate and organized manner at all times and shall reconcile the Account on a monthly basis. The Secretary/Treasurer shall prepare, or cause to be prepared an annual fiscal year report. This shall include the yearly budget; the amount, date, and source of all receipts; the amount, date, recipient, and purpose of all disbursements; the Account balance at the beginning of the fiscal year; the Account balance at the end of the fiscal year; and an inventory of all equipment and material owned by the Team. A copy of the annual report shall be distributed to each Party within thirty days of the end of the fiscal year. The Secretary/Treasurer shall furnish such other reports and data as may from time to time be requested by the Board. All financial records shall be available for inspection by an authorized representative of each Party upon written request and by arrangement with the Secretary/Treasurer or other members of the Board.

10. TEAM SUPPORT AND PARTICIPATION

Each of the Parties agrees to support the Team in the following areas:

A. TRAINING

The Parties shall provide persons to attend various levels of training of the Team and continuing education requirements consistent with Government Code section 8574.19 et seq. and other applicable laws, regulations, and Team standards set forth for operations. Each Party shall host and support training activities.

B. STAFFING

The Parties shall provide persons to participate as members of the Team for response to incidents or to support the Team's response.

C. INSURANCE

Each of the Parties shall provide Worker's Compensation Insurance for its fire persons while such persons are involved with the Team. Government Code sections 50925 et seq. (Extraterritorial Activities of Firemen) and other applicable Worker's Compensation, liability, and/or benefits laws are incorporated into this Agreement by reference.

D. EQUIPMENT

Each Party shall support the Team with resources whenever possible and with regard to other Team Members be responsible for any damage or loss to such party's resources which occurs while being used pursuant to this Agreement.

E. MEDICAL EXAMINATIONS

Medical examinations for each Party's Team members shall be provided by that Public Agency (pursuant to CFR 1910.120 et seq.) The Parties will work cooperatively to secure the most cost-effective approach to medical examinations.

F. COMPENSATION TO THE PARTIES

The Parties agree that their participation in this agreement is without regard to any reimbursement or compensation, and further agree as follows:

- The Team will actively pursue grants and donations to reduce financial dependence on participating Public Agencies.

- The Parties will fully support the Team and, when possible, assign their employee(s) to serve as Team Members regardless of receiving any reimbursements or compensation.
- Obtaining reimbursement for services provided by the Team is a high priority, and that it is the responsibility of the Agency Having Jurisdiction (AHJ) to pursue such reimbursements from persons or entities responsible for hazardous materials incidents.
- When the AHJ is a Party to this agreement, any reimbursements received by the AHJ for an incident to which the Team responds will be equitably distributed among those Parties who have actually incurred costs related to the incident.
  - When such reimbursement is received, the Party who is the AHJ will notify the Business Manager and the Secretary/Treasurer of the reimbursement amount, incident name and incident number.
  - The Business Manager will, within seven days, notify all Parties of the reimbursement and ask the Parties to submit reimbursement requests to the Business Manager.
  - Parties wishing to be reimbursed must provide a letter requesting reimbursement within 30 days of the notification by the Business Manager, and must include documentation of costs.
  - If the Team itself incurred any costs on the incident, the Business Manager will submit a reimbursement request on behalf of the Team, according to the same requirements listed above.
  - After 30 days have elapsed, the Business Manager will consolidate requests received into a reimbursement plan, which will equitably distribute the reimbursement among the Parties, and will present the reimbursement plan at the next Board of Directors meeting for approval.
  - If the reimbursement received is less than the total of all reimbursement requests, each Party will receive a proportionate share of the reimbursement based on their proportion of the total of all reimbursement requests received.
  - If the reimbursement received is more than the total of all reimbursement requests, each Party shall be fully reimbursed and the balance of the reimbursement will be paid to the Team itself for future use as determined by the Board of Directors.



11. NON-PARTICIPATION

Any Public Agency named in the first "WHEREAS" Clause of this Agreement that chooses not to sign the Agreement can avail itself of the Team's services; however, that Public Agency must pay all costs of such Team services as "Assistance for Hire" at the rates determined by the Board.

12. COUNTERPARTS

This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the same Agreement.

13. EXECUTION

Each Public Agency that signs this Agreement shall promptly notify the County of San Luis Obispo Office of Emergency Services and shall simultaneously forward to such office an executed copy of its Counterpart Signature Page of this Agreement by hand-delivery to such office. Every Public Agency desiring to participate in this Agreement must submit its executed copy of its Counterpart Signature Page to the County of San Luis Obispo Office of Emergency Services prior to July 1, 2015.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officers. This Agreement is deemed to be signed and executed as of the last date a Public Agency executed this Agreement which is the \_\_\_\_ day of \_\_\_\_\_, 2015.

COUNTY OF SAN LUIS OBISPO

By: \_\_\_\_\_  
Chairman of the Board of Supervisors

Approved by the Board of Supervisors on  
\_\_\_\_\_, 2015

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Chief Deputy County Counsel

Date: 3/4/15